

### Proposed Regulations for Short-term Rentals for Consultation

Date: June 7, 2017

To: Executive Committee

From: Executive Director, Municipal Licensing & Standards, and Chief Planner and Executive Director, City Planning

Wards: All

#### SUMMARY

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This report proposes regulations for short-term rentals for consultation.

The short-term rental regulatory approach is premised on the following principles: permit people to rent their homes for short periods; minimize negative impacts on housing affordability and availability; enable greater diversity in tourism accommodations; maintain community stability, including in vertical communities; minimize nuisances; and create regulations and taxation systems that are fair and easy to follow for people and companies.

The proposed regulations are to:

- Amend the City's zoning bylaws to create a new land use called "short-term rental" that is permitted in principal residences across the city;
- Prohibit short-term rentals that are not in a person's principal residence;
- License companies that facilitate short-term rental activity, like Airbnb; and
- Create a registry for anyone who operates a short-term rental in their home.

The proposed zoning framework would permit short-term rentals across the city in the principal residence of any owner or tenant in residential and mixed use zones and in all residential building types. Within their principal residences, people could rent: up to three rooms within a unit, separately; the entire dwelling unit; and lawful secondary suites. A short-term rental would not be permitted in a dwelling unit that is not a principal residence. This restriction limits long-term housing from being converted to accommodation for tourists.

The proposed licensing and registration system would require that all short-term rental operators register with the City and post their registration number in all advertisements. Short-term rental companies would be required to be licensed and only list registered

short-term rentals. These regulations strengthen the above zoning amendments and minimize the impacts of short-term rentals on neighbourhoods.

Companies would be required to report quarterly to the City with anonymized data about short-term rental activities, share details about certain listings upon request by the City, remove problem listings and pay a licensing fee. Operators would be permitted to register their principal residence only, and one registration number would apply to all listings associated with that address (renting bedrooms, renting the entire unit, renting secondary suites). Operators would be required to provide appropriate emergency and safety information to guests and pay a registration fee.

Based on information from Airbnb, staff estimate that the proposed regulations would permit approximately 7,600 properties rented on Airbnb in 2016 to continue to operate as they likely occurred in a principal residence. Approximately 3,200 properties rented on Airbnb in 2016 would likely not be able to be registered as they likely did not occur in a principal residence.

Staff propose to consult the public on the proposed zoning bylaw amendments and the licensing and registration system for short-term rental companies and operators. Staff propose to report back to Council with final recommendations to regulate short-term rentals in the fourth quarter of 2017.

Concurrent with the proposed regulations in this report, staff are considering the implementation of a hotel and short-term rental tax, as directed by Council, subject to receiving legislative authority from the Province of Ontario. On April 27, 2017, the provincial budget proposed giving the City the authority to collect a hotel and short-term rental tax by amending the City of Toronto Act. Recommendations for a tax on hotel and short-term rental will come forward later this year.

The recommendations in this report were developed based on research and consultation. Staff sought input from the public and stakeholders through online surveys, public meetings, focus groups with short-term rental operators and users, and meetings with representatives from the short-term rental and tourism industries and community and neighborhood organizations.

The following City divisions were consulted in the preparation of this report: Affordable Housing Office; Corporate Finance; Economic Development & Culture; Legal Services; Shelter, Support & Housing Administration; Social Development, Finance & Administration; Toronto Fire Services; and Toronto Building.

## RECOMMENDATIONS

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The Executive Director, Municipal Licensing & Standards, and the Chief Planner and Executive Director, City Planning, recommend that:

1. Executive Committee direct the Chief Planner and Executive Director, City Planning, to prepare amendments to all applicable general zoning bylaws in keeping with the proposed zoning bylaw format outlined in Attachment 1, and hold community meetings as required by the Official Plan and a public meeting as required under the Planning Act.
2. Executive Committee direct the Executive Director, Municipal Licensing and Standards, to conduct public consultation on the proposed licensing and registration framework outlined in Attachment 2.
3. Executive Committee direct the Chief Planner and Executive Director, City Planning, to report with final zoning amendments to a statutory meeting of Planning and Growth Management Committee and direct the Executive Director, Municipal Licensing and Standards, to report with the licensing and registration requirements to the Licensing and Standards Committee, in the fourth quarter of 2017.

## FINANCIAL IMPACT

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There are no financial implications beyond what has already been approved in the current year's budget. A full assessment of the financial impact of the proposed regulations will be prepared as part of the final report.

A budget provision for a new hotel tax of \$5 million has been set up in the City's 2017 Operating Budget for the fourth quarter of 2017, which will be the subject of a report to Executive Committee later this year.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## DECISION HISTORY

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On January 28, 2016, Executive Committee referred item [EX11.19 Regulating Temporary Accommodation Rentals](#) to the Executive Director, Municipal Licensing & Standards (ML&S), and the Chief Planner and Executive Director, City Planning, to provide an interim report in the third quarter of 2016 and a final report in 2017 on regulating temporary accommodation rentals.

On October 28, 2016, Executive Committee adopted [EX18.12 Developing an Approach to Regulating Short-Term Rentals](#) and directed the Executive Director, ML&S, and the Chief Planner and Executive Director, City Planning, to report no later than the end of the second quarter of 2017 with proposed regulations for short-term rentals.

On December 13, 2016, City Council adopted [EX20.2 The City of Toronto's Immediate and Longer-term Revenue Strategy Direction](#) requesting that the Province make legislative and/or regulatory reforms to grant the City authority to collect a hotel and short-term rental tax. Upon legislative changes from the Province, City Council endorsed the implementation of the hotel and short-term rental tax and requested that the City Manager report back on a recommended tax rate for short-term rentals that is no higher than 10%.

On Feb 15, 2017, City Council adopted [EX22.2 2017 Operating and Capital Budget](#), which endorsed the creation of a hotel and short-term rental tax in the City of Toronto, at rates of 4 percent of hotel accommodation revenues, and up to 10 percent of short-term rental revenues, subject to receiving the necessary legislative authority, for implementation as soon as practical in 2017.

## **COMMENTS**

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There has been a significant rise in the number of people around the world and in Toronto renting residential property or rooms for short periods. This growth has been driven by the emergence of online companies that host listings and facilitate bookings and payments. The largest of these companies, Airbnb, offers listings in more than 190 countries and has booked more than 60 million guests. With this rise, Executive Committee has directed staff to develop potential short-term rental regulations.

### **Defining "Short-term Rental"**

A short-term rental is any rental of a residential unit lasting up to 28 days in a row. The 28 day definition distinguishes short-term rentals from longer rentals (it is not a cap on the number of nights a home can be rented). Any rental that lasts 29 consecutive days or more would be considered a long-term rental. A more precise definition of short-term rental is discussed later in this report.

Staff divide short-term rental activity into two categories: activity that occurs in the principal residence of the operator and activity that does not occur in a principal residence. The former has commonly been referred to as "home sharing". Staff refer to the latter activity as "commercial" short-term rental activity.

### **Short-term Rental Market in Toronto**

#### **Short-term Rental Market Overview**

Upon reviewing short-term rental websites in April 2017, staff found there were 16 websites offering rentals in Toronto that met the City's definition of short-term rentals with a combined total of approximately 20,000 listings. Companies with more than 300 listings include Airbnb, Expedia (includes HomeAway and VRBO), Trip Advisor, FlipKey, and Kijiji. Many of these listings were posted on more than one website, so while there were over 20,000 listings for short-term rentals, the number of properties listed in Toronto is likely smaller.

In terms of the number of nights rented through short-term rental companies in Toronto, staff have obtained data from Airbnb and Expedia. In 2016, there were 988,378 nights rented on Airbnb and 24,301 nights rented on Expedia.

A detailed description of the short-term rental market can be found in Attachment 3.

### **Airbnb Activity**

Airbnb is the company with the most short-term rental listings being advertised in Toronto and the majority of its listings meet the proposed definition of short-term rental. Below are some general details about Airbnb activity in Toronto based on data provided by Airbnb:

- 15,869 listings related to 10,800 properties were rented in 2016. The number of listings rented in 2016 more than tripled since 2014.
- 72% of all listings rented in 2016 were in condominiums, apartments or lofts.
- 65% of short-term rental listings offered the entire unit for rent, while the remaining 35% offered a room within a unit.
- The ten neighbourhoods with the most listings were all downtown and represented half of all listings (53%) rented in 2016. Around a fifth of all listings (21%) were rented in the *Waterfront Communities-The Island* neighbourhood, which includes the central waterfront area from Bathurst to the Don River.

### Measuring commercial short-term rental activity

While it is difficult to determine a precise number, based on the information provided by Airbnb, staff estimate that approximately 3,200 properties rented in 2016 were not principal residences. This is based on a survey of hosts done by Airbnb that found that 77% rent their own home or their secondary suite. The calculations behind this estimate are discussed further in Attachment 3.

## **Research and Consultation Process**

The details, findings and recommendations in this report are based on the following work completed by staff between October 2016 and May 2017: review of academic research on short-term rentals; review of regulations in other jurisdictions in North America; interdivisional collaboration to build a broad understanding of the impacts of short-term rentals on Toronto; collaboration and sharing of information with the Province; and stakeholder and public consultation on experiences with short-term rentals and ideas about regulation.

### **Public and Stakeholder Consultation**

During March and April 2017, staff sought input from the general public and key stakeholders, including hotel, motel, and bed & breakfast (B&B) representatives; short-term rental companies and providers; housing and neighbourhood advocates and ratepayer associations; condominium representatives; and corporate housing providers. Staff also sought input from provincial staff, policy experts, and other jurisdictions regulating short-term rentals.

City staff sought input from these groups through the following methods:

- Two public meetings with facilitated group discussions (320 attendees).
- Public meeting online streamed on YouTube with interactions with staff on Twitter (700 views of the online videos posted on Twitter).
- Online public survey (4,000 responses). Details in Attachment 4.
- Five targeted stakeholder meetings (80 attendees). Details in Attachment 4.
- Focus groups with users and operators. Details in Attachment 5.
- Representative survey by Ipsos (1,009 responses). Details in Attachment 5.
- Stakeholder workshop by MaRS Solutions Lab (50 attendees). Details in Attachment 6.
- Regulator workshop by MaRS Solutions Lab (45 attendees from City and Province).
- Submissions, letters and emails to staff (52 emails from residents and submissions from 15 companies or organizations).

## Summary of Research and Consultation Findings

A summary of the research, data analysis, policy and regulatory overviews, and input from the public and stakeholders is provided below. A detailed analysis is provided in Attachment 3.

**Housing availability and affordability:** Toronto's housing market continues to be increasingly unaffordable for many. While the population of the city has grown (9.6% from 1996 to 2011), there has been little increase in the supply of rental housing in the past 10 years and the supply of rental housing is not meeting demand. 3.0% is considered to be a healthy vacancy rate, however, according to the CMHC Rental Market Reports, the vacancy rate for private rental housing is at its lowest in the past 10 years (1.3%) and the vacancy rate for condo rentals is even lower (1.0%). In terms of affordability, in 2011, 28% of owners were spending a third or more of their income on housing, while 44% of renters were spending 30% or more. Paying 30% or more of one's income on rent or shelter costs is widely used as a measure of housing unaffordability.

While it is difficult to assess the precise impact of short-term rentals on housing availability and affordability, there is anecdotal evidence that short-term rentals are reducing housing availability and tenants are being evicted so landlords can operate short-term rentals. Data limitations make it challenging to assess the full impact of short-term rentals, but according to the CMHC Rental Market Reports, a 1.3% vacancy rate means there were approximately 3,350 vacant units in the private rental market and just over 925 vacant units in the condominium rental market in 2016. As mentioned above, staff estimate there are approximately 3,200 properties that were rented in 2016 on Airbnb that were not in a principal residence. If the properties were no longer used for short-term rental, it is anticipated that they would be sold, left vacant, or rented long-term. Adding even half of these units back into the long-term rental housing market would have the potential to significantly increase the vacancy rate.

**Neighbourhood and nuisance issues:** The number of complaints made to the City via 311 regarding short-term rentals is low but growing. ML&S received 257 short-term rental complaints related to 213 properties between January 1, 2014, and May 31, 2017. Most complaints were related to zoning (86%), that is, questions around whether or not a property is permitted to be used for short-term rental, while the remaining were related to noise (8%), property safety and standards (5%), and garbage and waste (2%). By comparison, ML&S received 118 complaints related to 75 hotels, motels and B&Bs over the same period. Only one complaint was related to a traditional B&B.

There is a low but growing number of criminal occurrences related to short-term rentals. Toronto Police Services found 116 criminal occurrences between January 1, 2014, and December 30, 2016, where one of Airbnb, VRBO, Roomorama, FlipKey, and HomeAway were mentioned. Most criminal occurrences were related to fraud by operators or guests (54%) and damage and/or theft of property (42%). A small number were related to noise (5%), drug use and trafficking (4%), and sex work (2%).

Staff heard from many residents and neighbourhood advocates about negative experiences with short-term rentals in their communities. Residents raised the following concerns: excessive noise from parties; increased garbage; general lack of upkeep of surroundings; damage to buildings; unfair use of parking; safety concerns around a continuous flow of unknown guests; and a loss of a sense of community. Some felt that short-term rentals that operate on a full-time basis without an operator present cause more nuisance issues than when the operator is present during the short-term rental.

**Economic development and tourism:** Staff found that the growth of the short-term rental industry in Toronto has both positive and negative impacts on the economy. Short-term rentals increase consumer choice; supplement incomes of operators; spur the development of service businesses, such as short-term rental property managers and cleaners; and may stimulate housing starts and the real estate sector through short-term rental investor demand for condominium properties.

However, growth in the short-term rental market may be one of the factors contributing to the current stagnation in the number of hotel rooms in the city. This is a concern because the traditional accommodations sector is an important contributor to the local economy. Also, if jobs in the hotel industry were replaced with jobs in the short-term rental industry, there may be fewer jobs in total and/or the jobs may be more precarious.

**Taxation:** Short-term rental operators and companies are responsible for paying property tax, sales tax, and personal or corporate income tax. The City of Toronto only collects property taxes; sales and income taxes are collected and administered by the Canada Revenue Agency (CRA) for provincial and federal governments.

There is currently no hotel tax or short-term rental tax in Toronto. Instead, under an arrangement with the Great Toronto Hotel Association (GTHA), participating hotels voluntarily contribute up to 3% of room revenues to a Destination Marketing Program.

While the City is currently prohibited from levying a hotel and short-term rental tax, after requests from City Council, on April 27, 2017, the Province included in its budget authority for municipalities to levy a tax on "transient accommodation (hotel tax)" (Bill

127). This includes the authority to levy a tax on short-term rentals. Bill 127 received Third Reading and Royal Assent on May 17, 2017. However, the section that provides the authority to the City to impose a hotel and short-term rental tax has not been proclaimed into force. Provincial staff have indicated that they intend to delay proclamation until the hotel and short-term rental tax regulations have been prepared. City staff are in discussions with provincial staff regarding the content of these regulations.

Council endorsed the creation of a hotel tax rate of 4% of hotel accommodation revenues in February 2017 and up to 10% of short-term rental revenues during the 2017 budget approval. Staff plan to report back on the proposed design features and implementation authorities, including a revenue allocation policy, and status of the required legislative authority, for implementation effective as soon as practical in 2017. These details are described further in the proposed regulations section of the report.

**Benefits to individual operators:** Operators shared that they experienced many benefits from operating short-term rentals. Their main reason for operating short-term rentals was to supplement their income. According to Airbnb, hosts earn approximately \$4,900 per year from a typical listing. In 2015, approximately one fifth (21%) of operators earned over \$12,780. Operators said they take pride in their short-term rentals, see themselves as ambassadors for the city and feel short-term renting allows them to meet new people from around the world. When asked how operators would use their properties if they were not operating short-term rentals, they said they would rent the property long-term, sell the property, or leave the property vacant.

**Condominiums:** The majority of short-term rentals in Toronto are happening in condominiums (condos). 72% of listings rented on Airbnb in 2016 were in condos, apartments, and lofts and 64% of listings available on Expedia on March 31, 2017 were in condos and apartments. Some condo corporations explicitly permit short-term rentals, some are silent on the issue and others explicitly prohibit short-term rentals.

Condo stakeholders shared that when corporations do have rules around short-term rentals, they can be difficult to enforce, as they feel the enforcement authority provided by the *Condominium Act* is limited. They also shared that it is difficult to change declarations to either permit or restrict short-term rentals based on the thresholds required by the *Condominium Act*. Some declarations do not allow the bylaws or rules to restrict ability to rent, and if a majority of condo owners want to change the declaration, it is difficult as 80% of owners must consent. Some condo stakeholders suggested that the City could host a prohibited building list, as is the practice in Chicago, to better identify and prevent short-term rental use in those buildings.

**Input from B&B and corporate housing industry stakeholders:** There are 44 Toronto B&Bs listed on BBCanada.com, the primary B&B booking site in Canada. The B&B industry has minimal provincial regulation and Toronto does not licence B&Bs. The City received only one complaint related to B&Bs between 2014 and 2016. The Federation of Ontario Bed and Breakfast Accommodation (FOBBA), which has approximately 21% of the B&Bs in Ontario as members, has minimum operating standards and inspections that go above and beyond what is required by municipalities and the Province. As B&Bs typically provide accommodations for stays lasting 28 days

or less and within principal residences, proposed regulations for short-term rentals will apply to their industry.

Corporate housing provides furnished housing rentals for stays lasting longer than 30 days and less than one year, and primarily serves businesses (e.g. work-related relocation or training). As corporate housing providers rent to tenants for longer than 28 days, proposed regulations for short-term rentals would not apply to their industry.

**Jurisdictional scan:** Staff reviewed short-term rental regulations in 13 cities across North America. The impact of short-term rentals on housing availability and affordability was the primary concern for a number of cities dealing with a shortage of affordable housing. In other cities, the impact on the tourism sector and the impact on neighbourhoods were of greater concern.

Eight cities limited the operator of short-term rentals to principal residences. Some did this by capping the total number of nights per year that a listing can be rented. Three did this by requiring that operators be able to prove the unit was their principal residence. Some jurisdiction also placed limits on where short-term rentals can occur and/or in which buildings they can occur. A few cities did permit commercial short-term rental activity with some limits or additional requirements. A number of cities also placed requirements on short-term rental companies to share information or communicate with operators, though only Chicago created a licence for short-term rental companies.

Most jurisdictions are in the early stages of implementation and have not been able to evaluate their regulations and determine successes and opportunities for improvement.

**Input from public on regulations:** Throughout the public and stakeholder consultations, there was general agreement that short-term rental activity should be regulated by the City. According to the Ipsos survey, the vast majority of Toronto residents (74%) believe short-term rentals should be permitted with some regulations. According to the same survey, respondents prioritized the following goals for potential regulations: keeping residential areas and buildings safe; housing affordability; and the need to regulate all types of short-term rentals fairly. Most were supportive of regulating short-term rental operators and/or companies, placing data sharing requirements on companies, limiting operators' activity (e.g. to principal residences), holding operators accountable, and creating clear processes on how to deal with problem properties.

## **Current Regulatory Framework**

Businesses that provide short-term accommodation to the travelling public, like hotels, motels and B&Bs, are required to operate in accordance with provincial legislation. Relevant legislation includes the *Hotel Registration of Guests Act*, the *Innkeepers Act*, the *Ontario Building Code Act* and its Ontario Building Code and Ontario Fire Code Regulations, the *Accessibility for Ontarians with Disabilities Act*, the *Taxation Act* and the *Workplace Safety and Insurance Act*.

Hotels, motels, B&Bs, short-term rental operators, travel agencies and short-term rental companies are not currently licensed by the City of Toronto.

The use of property in Ontario is regulated by municipal zoning bylaws. Under Toronto's city-wide zoning bylaw, By-law 569-2013, uses that cater to the travelling public are currently permitted under the definitions of "hotel" or "tourist home", based on certain conditions.

## **Overview of Proposed Short-term Rental Regulations**

Staff have considered all the research and input received to date and weighed this information to develop balanced regulations that intend to promote consumer protection, public safety, and the economic, social and environmental health of the city. Consistent with these overarching objectives, the proposed regulations are intended to maximize the benefits of short-term rentals and minimize their negative impacts in a manner that is also consistent with the principles in the City's official plan. The short-term rental regulatory approach is based on the following principles:

- Allow people to rent their homes for short periods;
- Minimize the negative impacts on housing affordability and availability;
- Enable greater diversity in tourism accommodations;
- Maintain community stability, including in vertical communities;
- Minimize nuisances, such as noise and garbage, associated with short-term rentals; and
- Create a set of integrated regulations and taxation systems that are clear and easy to follow for residents and companies.

Staff propose regulations that would allow people to rent their own homes for short periods and to advertise these rentals online via companies like Airbnb. Short-term rentals would not be permitted in units that are not a person's principal residence.

People would be able to rent up to three bedrooms in their home or rent their entire home while they are away. People with lawful secondary suites would be permitted to operate short-term rentals in those suites. Condominium boards would continue to be able to utilize their existing authority to further limit or prohibit short-term rentals through a declaration, bylaws or rules.

Under the proposed regulations, all short-term rental companies would need to be licensed with the City and all short-term rental operators would be required to register with the City. Operators would need to comply with all municipal bylaws, meet the Ontario Building and Fire Codes and communicate key safety information to guests. The City would remove operators from the registry if a short-term rental operator does not meet the registration requirements or is convicted of causing nuisance or being involved in criminal activity related to the short-term rental. Companies would be required to disclose information with the City about the activity of operators and would not be permitted to list short-term rental properties that are not registered with the City.

This approach would help to hold both companies and operators accountable for short-term rental activities. The operator registry would allow easy online signup (which would enhance compliance) and would not introduce undue burden for operators. Staff have

concluded that a registry system will allow the City sufficient oversight and access to operators for effective enforcement of bylaws.

Staff propose licensing short-term rental companies because of the commercial nature of their business. Through licensing, short-term rental companies will be required to oversee their operators' and ensure that they are operating in compliance with regulations. It will also provide the City to access data on short-term rentals that will enable effective enforcement of regulations.

## **Proposed Zoning Framework**

To permit short-term rentals in dwelling units that are a person's principal residence, the proposed zoning framework would amend the city-wide zoning bylaw, By-law 569-2013, to provide a new definition for short-term rental, identify where the use is permitted, and provide conditions under which the use is permitted. As short-term rentals would be permitted to occur in dwelling units, they would be limited to residential and mixed use zones. As the entire city is not covered by By-law 569-2013, other relevant zoning bylaws from former municipalities would need to be amended in a similar manner to address short-term rentals. The proposed amendments to By-law 569-2013 are shown in full in Attachment 1.

It should be noted that short-term rentals were not previously defined in the city-wide zoning bylaw or other zoning bylaws, and are therefore currently not permitted.

A key goal of the proposed zoning amendments is to ensure that short-term rental activity that does not occur in a principal residence, is not permitted, as it has been determined to have a more immediate impact on housing availability and affordability when conducted on a larger scale. As mentioned above, the city's rental vacancy rate is the lowest it has been in ten years. Maintaining the rental housing stock is a cornerstone of the Official Plan housing policies and a key priority for Council. The loss of rental units in favour of short-term rentals is inconsistent with Official Plan objectives to provide a full range of housing that makes more efficient use of, maintains and replenishes, the existing stock.

The transient nature of short-term rental users can lead to destabilizing or changing the established character of a neighbourhood, especially when the operator is absent. Commercial short-term rental activity was determined to have greater neighbourhood impacts related to nuisance and safety issues. Limiting short-term rentals to a dwelling unit that is the principal residence of the operator ensures oversight of the property and retains the intended residential nature of the use as contemplated by the City's Official Plan and zoning bylaws. This helps to protect community character, avoids nuisance issues, and assists in keeping long term rental units available and affordable.

Staff estimate, based on information provided by Airbnb, that the proposed zoning changes would permit 77% of Airbnb operators to continue doing short-term rentals. This generally aligns with public input, since staff heard that many residents were

supportive of regulating short-term rentals by limiting an operators' activity to their principal residences.

### **New Use Definition for Short-term Rentals**

Staff propose adding a new definition of short-term rentals to city zoning bylaws as follows: "all or part of a **dwelling unit**, that is the principal residence of the short-term rental operator, used to provide sleeping accommodations for any rental period that is 28 consecutive days or less".

The city-wide zoning bylaw defines a **dwelling unit** as: "living accommodation for a person or persons living together as a single housekeeping unit, in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of the unit."

### **Short-term Rentals: Permitted Zones**

Staff propose short-term rentals be added as a permitted use for all zones where dwelling units are permitted, which are the following:

- Residential Zone (R)
- Residential Detached Zone (RD)
- Residential Semi-Detached Zone (RS)
- Residential Town House Zone (RT)
- Residential Multiple Dwelling Zone (RM)
- Residential Apartment Zone (RA)
- Residential Apartment Commercial Zone (RAC)
- Commercial Residential Zone (CR)
- Commercial Residential Employment Zone (CRE)

### **Secondary Suite Permissions**

The proposed zoning framework would permit short-term rentals in lawful secondary suites. The city-wide zoning bylaw, By-law 569-2013, defines a **secondary suite** as "a self-contained living accommodation for an additional person or persons living together as a separate single housekeeping unit, in which both food preparation and sanitary facilities are provided for the exclusive use of the occupants of this suite, located and subordinate to the dwelling unit". Secondary suites are permitted in nearly all detached houses and semi-detached houses, and in some residential areas, they are also permitted in townhouses. Since 2002, 1,759 lawful secondary suites have been constructed across the city.

The proposed framework would permit secondary suites to be used as short-term rentals only if they are in the person's principal residence. This ensures oversight of the property by the occupant of the main dwelling unit.

There are secondary suites across the city that have not obtained planning permissions, including building permits. These units are not considered lawful secondary suites and therefore, cannot be used for short-term rental purposes. Only secondary suites that are permitted by City zoning bylaws and comply with Building Code and Fire Code requirements are permitted for short-term rental use.

## Specific Use Regulations for Short-term Rentals

Specific use regulations are a set of requirements associated with a use defined in the zoning bylaw. Staff propose creating specific use regulations for short-term rentals as follows:

- Permitting a dwelling unit, secondary suite and bed-sitting room to be used as a short-term rental, and
- Permitting a maximum of three bed-sitting rooms in any one dwelling unit

Zoning By-law 569-2013 defines a **bed-sitting room** as "a room used as separate living accommodations that: (a) has a private entrance from a hallway inside a building; and, (b) that may have sanitary facilities but no food preparation facilities".

The proposed zoning framework for short-term rentals would permit the use in a maximum of three bed-sitting rooms per dwelling unit to create a distinction between short-term rentals and the proposed definition for multi-tenant houses. The proposed definition of multi-tenant houses was presented in [EX18.13 Proposed Regulatory and Licensing Strategy for Multi-Tenant Houses and Consultation Plan](#), which was adopted by Executive Committee on October 26, 2016, and will be subject to further consultation. The proposed definition of a multi-tenant house cited in that report is, in part, a building containing more than three dwelling rooms that may have private sanitary facilities or common sanitary and cooking facilities.

## Licensing Framework for Short-term Rentals

Staff propose requiring short-term rental companies to be licensed and short-term rental operators to register with the City. This approach minimizes neighbourhood nuisances caused by short-term rental activity, upholds proposed zoning bylaw amendments and increases protections for the health and safety of short-term rental consumers.

## Key Definitions for Short-term Rental Licensing Framework

The following are proposed definitions for the short-term rental regulations:

- **Short-term rental:** rental of a residential unit where the period of continuous occupancy is 28 days or less in exchange for payment. This includes existing B&Bs (defined as "tourist homes" in the zoning bylaw) and excludes hotels, motels, couch surfing or other short-term accommodations where there is no payment.
- **Short-term rental company:** any person or corporation who accepts, facilitates, or brokers requests for or advertises or offers short-term rental accommodations for compensation or a fee.
- **Operator:** any person (owner or tenant) who operates a short-term rental.
- **Principal residence:** a property that meets all of the following conditions:
  - The person has designated the property as their principal residence on their income tax filing or in other government records.
  - The person owns or rents the property alone or jointly with another person.

## **New Licence for Short-term Rental Companies**

### **Short-Term Rental Companies Must be Licensed with the City**

The proposed regulations would require that short-term rental companies be licensed, meet a set of requirements, and pay an annual licence fee. Companies would only advertise short-term rental listings that are registered with the City. This would drive operators to register with the City to increase compliance with the proposed regulations. Companies would be required to share anonymized information on the volume and locations of short-term rental activities facilitated by the company. Companies would also be required to provide specific information about individual operators if requested by the City. This would enable the City to analyze the impacts of short-term rental activity broadly and gain information about certain operators to ensure they are complying with City bylaws.

To enable effective enforcement, companies would be required to supply the City with a phone number and e-mail to allow ML&S staff to inquire about operators and listings that are under investigation. Companies would also be required to maintain a business address located in Ontario. This would facilitate service of any legal documents.

All licensed companies would need to meet the requirements described below.

#### Only advertise registered operators

Staff propose that companies would only be permitted to advertise short-term rental listings that are registered with ML&S. Companies would be required to:

- Remove all short-term rental listings that are not registered; and,
- Ensure that all short-term rental listings include a valid registration number.

This requirement would place responsibility on the company to ensure they only list registered operators. The intent is to increase compliance with the regulations and help deter companies and operators from violating the requirement that short-term rentals must occur in a principal residence.

#### Disclosure of non-anonymized data with ML&S upon request

Staff propose that companies be required to disclose information about individual operators with ML&S upon request. The City could request the following information about individual operators: registration number; details of rentals, including the total number of nights rented, and the type of listing (entire unit, shared unit); and financial data, in the event that Council adopts a tax on short-term rentals. This information would support investigations, enforcement efforts and tax calculation (if required).

#### Disclose anonymized data with the City quarterly

Staff propose that companies would need to disclose anonymized information quarterly with ML&S about all short-term rental activity facilitated by the company. The data on each listing would include the number of times it was rented for 28 days or less, the total number of nights it was rented short term, the anonymized location of the listing (by official neighbourhood), the type of listing (entire unit, shared unit), and possibly financial data (in the event that council adopts a tax on short-term rentals). This data would allow the City to monitor the short-term rental market and analyze how its activity impacts the City. This data would provide insight into the market's impacts on tourism

and housing and depending on the results of analysis, could inform future changes to existing laws and policies. The data would also help the City monitor the impacts of the proposed regulations and determine whether further changes are needed.

#### Communications with registered operators

Companies would be required to communicate information about City regulations for short-term rentals to all operators associated with them. This holds companies accountable to communicate and disclose requirements and other clarifications from the City with their operators. This would also help the City communicate changes to existing regulations to operators. These requirements would be important to facilitate understanding of, and compliance with City bylaws. For example, if the City sees trends in particular types of issues, it may require companies to assist in its efforts to educate operators so as to effectively and efficiently promote greater compliance with City bylaws.

#### Addressing problem operators

To ensure that short-term rental companies address problem operators, it is proposed that companies be required to develop a procedure to mitigate neighbourhood nuisance and prevent short-term rentals that pose a threat to public health or safety from operating. The companies' procedures may include proactive monitoring of operators, maintaining a complaints line for neighbours and a process through which bad operators are removed.

If a company removes an operator for the reasons mentioned above, the company would need to provide the City with the operator's registration number and the reason the operator was removed. This would allow City staff to closely monitor the operator and could help with investigations of bad operators. If the City removes an operator from the registry for the reasons mentioned, the company would also be required to remove the operator from their website. This is in order to ensure that deregistered operators cease all short-term rental operations.

#### **Companies Permitted to Register Operators**

It is proposed that companies may opt for an integrated registration system with the City. This would allow companies to supply the City with registration information on operators.

The purpose of an integrated system would be to facilitate convenient online registration. An integrated process would help companies ensure that operators listing properties have registered with the City as required. It may also reduce barriers for existing operators to register with the City by making the registration process a more seamless experience. This approach is currently being implemented in other cities with Airbnb, including Chicago and New Orleans.

Companies facilitating the registration of their operators would need to submit documents that comply with the same requirements for operators who register directly with the City (explained below). Therefore, processes would need to be established that would work with the City's online automated processes and are approved by ML&S. Accordingly, it is anticipated that the City would need to create appropriate data sharing agreements and security processes to facilitate this process.

## Short-term Rental Operator Registry

### Short-term Rental Operators Must Register with the City

Although it is expected that many operators will register through short-term rental companies as described above, there will be an online system in place for operators to register directly with the City.

An operator registry would allow the City to have oversight of operators and ensure that they are held accountable for their short-term rentals and only operate within principal residences. The proposed short-term rental operator registry would provide the City with basic information about operators and their short-term rentals, to enable City oversight and enforcement. This registration process may be enabled through a short-term rental company, as described above.

Through an online registry, the City would issue a registration number that the operator would need to include in all advertisements. Operators would need to meet proposed requirements and pay an annual fee in order to be and remain registered. Under the proposed regulations, ML&S would be able to audit and investigate operators to ensure they are operating in their principal residence and are in compliance with proposed Zoning Bylaw requirements.

The registry would require operators to provide the following information to the City:

- Name, address, contact information and copy of identification to verify the operator's identity.
- Information about their short-term rental:
  - List of companies used to advertise the listing (as applicable),
  - Description of which parts of the property would be used for short-term rental (entire unit, bedroom(s), secondary suite, other shared space), and
  - Building type (condo, apartment, detached/semi-detached/row house, townhouse, etc.).
- Contact information for a person available by phone 24 hours/day.
- Self-certification that the address is the operator's principal residence.
- Self-certification that the operator follows and would continue to follow all municipal, provincial, and federal laws.

Collecting this information would provide the City with information on the types of short-term rentals that are happening in Toronto. By requiring identification, ML&S would be able to ensure that each person only registers one time. This would help enforce the proposed zoning bylaw requirement that short-term rentals are only permitted in principal residences. The 24-hour contact information would ensure ML&S can contact someone in cases of emergency, even when the operator is away.

Providing false or inaccurate information could result in an operator being removed from the registry by ML&S, which would mean they could not continue to operate their short-term rental.

### Principal residence requirement

Through the proposed registration process, operators would need to self-certify that they are conducting the short-term rental in their principal residence. Operators would

not be required to provide proof of principal residence upon registration. However, once registered, ML&S could request that the operator provide proof that the address registered is their principal residence. Staff propose that documents that constitute proof of principal residence could include: government issued identification featuring both the operator's name and address; the operator's lease (if the operator is a tenant); or personal tax documents. Operators may be required to provide multiple documents as proof in order to establish their principal residence. Each person can only have one principal residence.

Some jurisdictions attempt to limit short-term rental activity through a cap on the total number of nights a short-term rental may be rented in a year. This could be to ensure that the operator is the principal resident and to reduce neighbourhood impacts by limiting the extent of the activity taking place in a residence. Staff have not proposed a night cap at this time because other jurisdictions have found that it is difficult to enforce.

#### Refusing applications for registration and removing listings from the registry

It is proposed that applicants could be denied registration or listings could be removed from the registry if a short-term rental operator is found not to be renting their principal residence, the operator is convicted of permitting or causing nuisances, there are convictions for criminal activity occurring at the rental property, or the activity is found to pose an imminent threat to public health or safety.

The Executive Director, or her delegate, would have authority to deny registration to (or deregister) any person who fails to provide the information ML&S determines is necessary for registration, including evidence that the property is their principal residence, and to deny registration or deregister any person convicted of bylaw or criminal offences relevant to their operation of a short-term rental.

Staff will develop full details of a deregistration process and a review process for the final report on short-term rental regulations.

#### **Secondary Suites Used for Short-term Rental Must Undergo a Fire Inspection**

All secondary suites must undergo a fire inspection to confirm compliance with the Fire Code, Ontario Regulation 213/07, as amended. Staff propose that any secondary suite that would host a short-term rental and that has not been previously inspected for compliance with the Fire Code, would need to undergo an inspection by Toronto Fire Services (TFS). ML&S would provide information to TFS regarding any address operating a short-term rental in a secondary suite. Prior to inspection by TFS, operators would be required to pay an inspection fee in accordance with the Toronto Municipal Code Chapter 441, Fees and Charges (the fee is \$299.13, including HST, effective April 1, 2017).

#### **Operators Must Meet the Consumer and Community Safety Requirements**

Staff propose that operators would need to meet the requirements below related to consumer and neighbourhood safety. To register, operators would be required to self-certify that they meet these requirements.

Operators would have to be in compliance with all applicable municipal, provincial and federal laws. Some relevant laws include:

- **Fire Code:** establishes minimum fire safety requirements for buildings and hazardous processes and activities in the Province. It is the responsibility of every individual to comply with the Fire Code. This includes, but is not limited to, installation and maintenance of smoke alarms and carbon monoxide detectors (where a fuel burning appliance, fireplace or garage exists).
- **Noise bylaw:** sets noise standards for unwanted sound and addresses specific activities such as loud music.
- **Permit parking bylaw:** sets rules around temporary on-street permit parking. Only residents, their visitors, and tradespeople may apply for a temporary parking permit. This permit is not meant for use by guests of short-term rentals.
- **Building Code:** sets minimum standard for the design and construction of all new buildings and for additions, alterations and change of use of existing buildings in Ontario.
- **Property standards bylaw:** sets out quality standards for buildings in Toronto.

#### Provide emergency information to guests

Operators must provide guests with contact information of a designated person associated with the property who could be reached if needed and emergency contact information for police, fire and ambulance (i.e. 911). Operators must also provide guests with a diagram of all fire escape routes so that guests are equipped with the knowledge to safely exit in the event of a fire.

## **Registration and Licence Fees**

Staff propose assigning fees to the short-term rental company licence and short-term rental operator registration to recover the costs of administering the licence and registry and enforcing the associated requirements. This aligns with [EX10.2 User Fee Policy](#), adopted by Council on September 26, 2011, which states that user fees should be collected to recover the cost of a service "where it is determined that [the service] provide[s] direct benefits to identifiable individuals...or businesses, beyond those that accrue to the general public". Note that user fees are not taxes and cannot be used to generate revenue beyond the cost of providing the service with which they are associated.

Staff would develop the licence and registration fees based on the cost of administering and enforcing the regulations. Based on an initial estimate and a review of licence and registration costs in other jurisdictions, staff estimate that the short-term rental company licence would have a base fee of between \$5,000 and \$20,000, and a scalable fee based on the number of nights rented (for example, \$1 per night) or listings hosted through the company. For example, a \$1 per night fee would have resulted in a nights rented fee of \$988,000 for Airbnb in 2016. The short-term rental registration fee for operators would be between \$40 and \$150 per year.

## Hotel and Short-term Rental Tax Bylaw: Report Back Later in 2017 on the Design and Implementation of a Tax on Short-Term Rentals

Pursuant to the provincial announcement to provide Toronto with the authority to levy a hotel and short-term rental tax, Corporate Finance staff are working on the design and implementation of a tax that is consistent with and complementary to the short-term rental regulations. If the City wishes to exercise this taxing authority on short-term rentals, it will consider the following design and implementation features:

- **Incidence (who pays):** The City needs to consider whether all or some portion of registered short-term rental operators would pay the tax. Consideration will be given to respect registered hosts' desire to use their principal residence as they wish, recognizing that the new tax will result in additional financial and administrative requirements on people wanting to rent their homes. It is expected that the tax, if implemented, would be passed onto customers.
- **Tax rates (how much):** Revenue potential will have to be assessed in relation to equity and fairness for all accommodation providers. The City needs to consider whether short-term rentals should be taxed at the same rate as hotels or be taxed at a differential rate.
- **Collection:** For administrative efficiency and practicality, the City is considering a model already used in other jurisdictions with a short-term rental tax to require Airbnb and other companies to collect the tax on behalf of the operators and remit the tax revenues to the City under the authority of a City bylaw.
- **Compliance:** The City will determine the specific authorities and capacity required to verify or audit to ensure compliance with the tax bylaw.
- **Capital and on-going operating costs:** A new system and additional resources will be required for administering the new tax, including for collection, reporting and potential appeals.
- **Status and impact of provincial legislation and regulations:** Bill 127, authorizing a hotel and short-term rental tax, received Royal Assent on May 17, 2017, but has not been proclaimed into law pending the development of accompanying regulations.
- **Allocation of funds received:** Bill 127 requires that a municipality use the proceeds of a hotel and short-term rental tax to replace funds previously collected and remitted to not-for-profit tourism organizations (Tourism Toronto). Staff will also recommend the appropriate use of remaining proceeds from hotel and short-term rental tax giving due consideration to requests that revenues be invested to fund affordable housing initiatives, or in art and culture programs.
- **Implementation date:** The 2017 Operating Budget was based on the assumption that a hotel tax would be implemented by October 1, 2017. A short-term rental tax could be implemented, subject to Council approval, in conjunction with proposed City licensing and registration framework.

A 4% tax on registered short-term rental hosts operating out of their principal residences is estimated to raise annual revenues ranging from \$1 million to \$3 million. The revenue estimate will be updated as more current and accurate industry data become available.

## Consultation and Next Steps

Staff will seek public and stakeholder input on the proposed short-term rental regulations, outlined in detail in Attachments 1 and 2, during the third quarter of 2017. This process will include:

- Posting the proposed regulation online for general feedback,
- A public meeting, and
- Meetings with key stakeholders.

Staff will report back with final recommendations for regulating short-term rentals to the appropriate committees in the fourth quarter of 2017.

## CONTACT

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## SIGNATURE

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## ATTACHMENTS

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Attachment 1: Draft Amendment to City-Wide Zoning Bylaw, By-law 569-2013  
Attachment 2: Proposed Short-term Rental Licensing and Registration Requirements  
Attachment 3: Detailed Summary of Research and Consultation Findings  
Attachment 4: Feedback from Public Meetings, Public Survey and Stakeholder meetings  
Attachment 5: Ipsos Public Opinion Research and Focus Group Reports  
Attachment 6: MaRS Short-term Rental Stakeholder Workshop Report  
Attachment 7: Jurisdictional Scan of Short-term Rental Regulations

# Attachment 1: Draft Amendment to City-wide Zoning Bylaw, By-law 569-2013

## CITY OF TORONTO

Bill No. ~

### BY-LAW No. XXXX-2017

#### To amend Zoning By-law No. 569-2013, as amended.

Whereas Council of the City of Toronto has the authority pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto enacts:

1. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions;
2. Zoning By-law No. 569-2013, as amended, is further amended by adding a new definition in Chapter 800.50 (867) so that it reads:

#### **Short-Term Rentals**

means all or part of a **dwelling unit**, that is the principal residence of the short-term rental operator, used to provide sleeping accommodations for any rental period that is 28 consecutive days or less;

3. Zoning By-law No. 569-2013, as amended, is further amended by adding the short-term rentals use in bold to the Permitted Use – with Conditions list in regulations:  
  
10.10.20.20(1) Residential Zone (R),  
10.20.20.20(1) Residential Detached Zone (RD),  
10.40.20.20(1) Residential Semi-Detached Zone (RS),  
10.60.20.20(1) Residential Town House Zone (RT),  
10.80.20.20(1) Residential Multiple Dwelling Zone (RM),  
15.10.20.20(1) Residential Apartment Zone (RA),  
15.20.20.20(1) Residential Apartment Commercial Zone (RAC),  
40.10.20.20(1)(B) Commercial Residential Zone (CR), and  
50.10.20.20(1)(B) Commercial Residential Employment Zone (CRE);
4. Zoning By-law No. 569-2013, as amended, is further amended by adding a new Section 150.13, short-term rentals so that it reads:

#### 150.13 Short-Term Rentals

150.13.1 General

(1) Application of this Section

The regulations of Section 150.13 apply to **short-term rentals**.

150.13.20 Use Requirements

Use Permission

- (A) **short-term rentals** are only permitted in a **dwelling unit**;
- (B) **bed-sitting rooms** used for **short-term rentals** may be in any **dwelling unit** that is in a zone that permits **short-term rentals**;
- (C) A **dwelling unit, secondary suite** and **bed-sitting room** may be used as **short-term rentals**; and,
- (D) A maximum of three **bed-sitting rooms** are permitted in any one **dwelling unit**.

150.13.60 Ancillary Buildings and Structures

- (1) **Short-term rentals** may not be in an ancillary building or vehicle

## **Attachment 2: Proposed Short-term Rental Licensing and Registration Requirements**

The requirements for short-term rental operators and companies are outlined below. Staff will consult the public on these requirements.

### **Proposed Licensing Requirements for Short-term Rental Companies**

1. A **short-term rental company** is any person or corporation who accepts, facilitates, or brokers requests for or advertises or offers short-term rental accommodations for compensation or a fee.
2. Companies must be licensed annually and pay an annual licence fee.
3. Companies must only advertise short-term rentals that are registered with the City, include the registration number in all short-term rental listings, and remove all short-term rental listings that are not registered.
4. To apply for a licence, companies must provide the name, phone, and email address of a person responsible for responding to all City communications and a registered business address in Ontario, together with such other information as is required by the Executive Director.
5. Companies must report quarterly to the City about short-term rental activity facilitated by the company. This will include anonymized data on each listing about:
  - a. Number of times rented for 28 days or less
  - b. Number of nights rented
  - c. Location
  - d. Listing type (entire unit, shared unit, or secondary suite)
  - e. Financial data, in the event that Council adopts a tax on short-term rentals
6. Companies must keep booking records of every short-term rental listing and operator for two years with the following details and disclose this information to the City upon request within ten days:
  - a. Name, address and registration number
  - b. Number of times rented for 28 days or less
  - c. Number of nights rented for 28 days or less
  - d. Financial data, in the event that Council adopts a tax on short-term rentals
7. Companies must convey any communications issued by the City to all registered operators upon request by the Executive Director.
8. Companies must:
  - a. Maintain and make publicly available their procedure for dealing with listings when complaints are received about nuisance, criminal activity, and/or contraventions of federal, provincial or municipal law.
  - b. Remove listings when issues of nuisance, criminal activity, and/or contraventions of federal, provincial or municipal law arise, in accordance with their procedures.
  - c. Provide the Executive Director with information about any listings and operators that are removed from the website for the reasons described above, including the reasons why the company removed the listing.
  - d. Upon notification from the Executive Director, remove listings that have been deregistered by the City.

9. Companies may facilitate registration of operators using an online system that is integrated with the City's registration system, subject to the execution of an agreement governing the collection and transmission of operator information on terms satisfactory to the Executive Director.

### **Proposed Registration Requirements for Short-term Rental Operators**

10. Short-term rental definitions:
  - a. **Short-term rental** is defined as rental of a residential unit where the period of continuous occupancy is 28 days or less in exchange for payment. This includes existing B&Bs and excludes hotels and motels and couch surfing or other short-term accommodations where there is no payment.
  - b. **Operator** is any person (owner or tenant) who operates a short-term rental.
  - c. **Principal residence:** a property that meets all of the following conditions:
    1. The person has designated the property as their principal residence on their income tax filing or in other government records.
    2. The person owns or rents a property alone or jointly with another person.
11. No one shall operate a short-term rental unless it is in their principal residence.
12. All short-term rental operators must register their address with the City annually and pay an annual registration fee.
13. Operators must provide proof of principal residence as defined by the Executive Director within 10 days, upon request.
14. Operator must post the City-issued registration number in any advertisement of the short-term rental.
15. To register, operators must provide the following information:
  - a. Name, contact information (phone and email) and address and copy of identification, as required by the Executive Director
  - b. List of companies through which they are or are intending to advertise (as applicable, to be updated as needed)
  - c. Emergency contact information (name and phone number of a person available by phone 24 hours/day during rental)
  - d. Description of which parts of the property will be used for short-term rental (entire unit, number of bedrooms, secondary suite, other shared space, to be updated as needed)
  - e. Building type (condo, apartment, detached/semi, row house, townhouse, etc.)
16. Operators must meet the following requirements and must self-certify that they meet these requirements upon registration:
  - a. Short-term rentals must comply with all municipal, provincial and federal laws.
  - b. Operator must provide emergency contact information (reachable during guest stay) to any guest.
  - c. Operators must provide guests with a diagram of all fire escape routes and 911 emergency contact
17. The Executive Director has delegated authority to remove listings that do not meet the registration requirements.
18. The Executive Director has delegated authority to revoke registration where operators have been convicted of offences such as causing a nuisance, or criminal activity has been found to have been occurring at the property.
19. Operators can register online, either through the City's website or through a short-term rental company, if the Executive Director has approved the short-term rental company to provide this service.